

S:Shared/Grants/PO Revised Protocol (01/13/2011)

EPA PROJECT OFFICER POST-AWARD EVALUATION PROTOCOL
(USED FOR ADVANCED AND BASELINE MONITORING
CHESAPEAKE BAY PROGRAM OFFICE (CBPO)

BACKGROUND INFORMATION (PART 1)

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| SIX MONTH: yes | GRANT NUMBER(s): FY 2010-16 CB97394501 | |
| 1. DATE PREPARED: 11/21/12 | 2. RECIPIENT NAME: PA DEP | |
| 3. ENTER ALL DATES: a. OFF-SITE CONFERENCE CALL DATE: 11/21/12 b. ON-SITE REVIEW DATE: N/A (enter date if applicable, otherwise N/A) c. REPORT DATE: 11/21/12 (Date Report Sent by Email to Grantee) d. CLOSED DATE: 11/30/12 (Date all major issues resolved, if applicable, otherwise this date is same as Report Date.) | 4. PROJECT OFFICER(s): Nita Sylvester PARTICIPANTS/PERSONS CONTACTED: (Names /Affiliations) - EPA: Nita Sylvester - GRANTEE: Steve Taglang, David Lewis and Fred Fiscus of PA DEP | |
| 5. TYPE OF EVALUATION: Off-site Evaluation | | |
| 6. <u>AWARD INFORMATION</u> Grant | 8. <u>PROJECT / BUDGET PERIOD DATES:</u> | |
| | BEGINNING | ENDING |
| | Project Period: 7/1/10 | 6/30/16 |
| | Budget Period: 7/1/10 | 6/30/16 |
| 7. <u>AWARD AMOUNT</u> (as of 11/21/12) EPA share: \$5,133,638 (FY10: \$2,466,819; FY11: 2,666,819) Recipient share/Match: \$5,133,638 (FY10: \$2,466,819; FY11: 2,666,819) Total: \$10,267,276 (FY10: \$4,933,638; FY11: \$5,333,638) | 9. <u>BRIEF PROJECT DESCRIPTION:</u> This project contains activities designed to reduce nutrient and sediment loads that cause or contribute to the impairment of water quality standards in the Chesapeake Bay and its tidal tributaries. This work will help to achieve and maintain the water quality necessary to improve the aquatic system health of the Chesapeake Bay ecosystem. | |

10. PROVIDE BRIEF DESCRIPTION OF RECIPIENT: Response: The state of PA is a signatory to the 1983, 1987 and 2000 Chesapeake Bay agreements. The DEP is the lead state agency for implementing Bay restoration and water quality improvement activities in the Potomac and Susquehanna river basins.

11. DESCRIBE THE GRANT WORK-PLAN COMMITMENTS:

- **Conduct Watershed Implementation Plan (WIP) outreach.** WIP Outreach objective will support several public outreach sessions necessary to develop the Phase 2 WIP. Further, this objective will provide assistance and develop tools to assist farmers and the regulated community in the development of strategies to reduce nutrient and sediment loads delivered to the Bay.
- **Provide an unbiased review of nutrient trading proposals and submitted nutrient reduction activities that could equate to the generation of nutrient reduction credits.** Establish an independent technical review team to support the Nutrient Trading Program. The Review Team would submit reports on individual trading proposals and provide feedback on technical issues, including the review of guidance produced by the Department to assist with the credit calculations and proposal submission and review. DEP expects to hire a contractor to assist with the Team management. The Review Team will review nutrient trading proposals in NRCS targeted watersheds or those watersheds with the highest incidence of agricultural operations out of compliance or in areas that have been identified as a source of excessive nutrient/sediment loads. Target areas or target practices identified by COAST and SPARROW will be prioritized for review.
- **Improve /expand regulation of sources of nitrogen, phosphorus and sediment delivered to the Bay.** This objective will support one new staff position to manage Pennsylvania's CAFO and agricultural regulatory program. This position will support the review/revision (as needed) of PA's CAFO program; manage development of Chapter 102 Erosion & Sediment Control guidance and outreach efforts to support Chapter 102 regulation revisions for agriculture; manage development and outreach efforts to support Manure Management Manual revisions. Agricultural operations within target areas identified by NRCS, COAST or SPARROW will receive priority attention.
- **Improve enforcement and compliance assurance.** This objective will support four new staff positions to provide regional compliance and inspection actions for Pennsylvania's CAFO, stormwater and agriculture regulatory programs. These positions will support increased field presence for additional inspections of non-CAFO agricultural operations. These positions would also support increased compliance activities under Chapter 102 Erosion & Sediment Control regulations, Chapter 91.36 relating to manure management, and local stormwater complaints.
- **Improve tracking of point and non-point sources of pollution.** This objective will support contractor assistance to assist Pennsylvania in managing water quality information related to Chesapeake Bay nutrient and sediment related problems. This assistance will also support existing staff input and monitor Pennsylvania's Chesapeake Bay reporting and model efforts.
- **Nutrient Management Compliance Assurance.** This objective will supplement and/or expand 36 county conservation district staff positions to provide compliance and inspection actions for Pennsylvania's agriculture regulatory programs. These positions will also support increased

compliance activities under Chapter 102 Erosion & Sediment Control regulations, Chapter 91.36 relating to manure management, and local storm water complaints.

12. DISCUSS PREVIOUS RECOMMENDATIONS/CONCERNS/OPEN PROGRAMMATIC FINDINGS, IF ANY EXIST; ARE THEY OR WILL THEY BE REMEDIED?:

a. If applicable, Previous Recommendations/Concerns listed in this Item 12 on Last Monitoring Review Report. Discuss if they will or will not be remedied? Response: N/A

b. Open Programmatic Findings in Last Monitoring Review (Refer to Part II, Item 7, PO Suggestions and Recommendations). If applicable, are there any open programmatic findings for this Award in last monitoring review (could not provide a “closed date” on last monitoring review report because of major finding(s))? Provide date of resolution and explanation on how finding(s) have been resolved. Response: N/A

RESULTS OF REVIEW WITH RECOMMENDATIONS (success & findings) - PART II

1. Scope of Review: Summarize the purpose of your review.

If appropriate, list issues that will be raised for resolution during the review (e.g., need response on why the recipient spent half of the grant award and hasn’t produced a literature review).

Response: The purpose of this review is to determine progress on the variety of projects completed under the FY’10-16 Chesapeake Bay Regulatory and Accountability Program (CBRAP) Grant from 7/1/10- 6/30/12. PA submitted their semi-annual report under this grant on 10/9/12. EPA provided comments and PA submitted a revised report on 11/19/12. EPA re-submitted unaddressed comments on 11/0/12 and asked for a 3rd iteration of the progress report addressing all comments by 11/29/12. This review is based upon the revised progress report and the EPA comments provided.

2. Financial: POs are responsible for:

>Analyzing the budget information in the reports by reviewing the payment history (using recipient progress reports, Financial Status Reports, or Financial Data Warehouse reports) and comparing actual amounts spent against the planned budget in the work plan.

>Providing rebudget approval to the Grants Specialist on the recipients request to rebudget grant funds or on other actions which require prior approval from EPA.

PO to Review, Discuss, and Respond:

a. Is this award incrementally funded? Response: no

b. Has the recipient begun work under this assistance agreement? Response: yes

c. Ensure funds are available to complete the project:

Answer the following: As of 11/21/12

*Amount of EPA funds awarded: \$2,466,819 for five years of work plus \$2,666,819 for 6 years of work

*Amount of EPA funds paid: \$847,065

*Remaining Balance: \$1,619,754 of the FY10 funds plus \$2,666,819 of the FY11 funds

% of Project Completed: 58%**

% of Funds Paid: 17% of EPA funds have been expended through 11/21/12 (See item f. for explanation.)

**This monitoring review covers activities to be completed through 6/30/12.

* Information found on Financial Data Warehouse Report at <http://ocfosystem1.epa.gov/neis/adw.welcome>

d. Has the recipient made any drawdowns on this award since the award date or last monitoring review? Response: yes

e. Is the payment history consistent with the progress to date? Response: yes

f. Are the expended and remaining funds reasonable? Response: FY11 funds were not awarded until 12/2/11 and will not be expended until all FY10 are expended. However, the drawdown of EPA FY10 funds is not keeping pace to ensure that all funds (FY10 and FY11) will be spent prior to the end of the budget period. Since PA plans to spend these \$\$ over a six year period, in order to stay on track to spend all funds by June 2016, 33% should have been spent by 6/30/12. Only 17% has been expended. Part of the lag is due to problems in hiring new positions. However, most of the positions have been filled now and PA expects to begin steady draw-down of funds for personnel costs. Another part of the lag is due to PA DEPs policy for subawards. PADEP awards \$\$ to their grantees and contractors, but they do not reimburse them until they are provided with invoices. When they get the invoices from their grantees and contractors, they draw down the funds to pay the grantees and contractors.

PADEP will be accelerating the drawdown of funds in this grant in order to spend all \$\$ by 6/30/2016 (since the budget period cannot be extended again). The projected annual expenditure, under objective #6 is estimated at \$632,000/year. These funds will be drawn down quarterly, beginning in September 2012 and continuing thru June 2016. These additional expenditures are expected to go a long way to getting PA back on track to spend all funds by June 30, 2016.

In addition, to the expenditures from Objective #6 above, the hiring of a new “stormwater” staff position should aide in spending down these funds prior to June 2014. Also, PA used CBRAP funds to support the management of the CAFO and agricultural regulatory program by hiring an intern to assist in the CAFO program activities-counting CAFO BMPs-and have engaged the services of a DEP Annuitant to support the development of the CAFO program manual. Each of these supported by funding from the CBRAP grant and should draw down some of these funds. Additional opportunities for these “small ticket items” are expected in the future.

g. Does this review indicate any need to amend the award? Response: no Award was already amended. Amendment 12/2/2011 – Increased Federal funding of Objective #1: “WIP Outreach, tools, Planning & Implementation Assistance” by \$100,000 and added Objective #6: “Nutrient Management Compliance Assurance”, EPA Share: \$2,566,819, Non-Fed. Share: \$2,666,819; added a new objective to workplan; extended the budget and project periods to 6/30/16; and updated terms and conditions of the award.

- **Verify with recipient if there is enough funding in place to cover expected costs?** If no, provide explanation. (*Contact either Lori Mackey or Ronnie Kuczynski for assistance to possibly add funds*)

Response: yes

- **Are the Project/Budget Period(s) long enough to cover the time that it will take to complete the project?** If no, provide explanation. (*Contact either Lori Mackey or Ronnie Kuczynski for assistance prior to requesting time extension request from recipient.*)

Response: The budget period has already been extended the maximum amount of time.

h. Does the recipient require any PO/Grant Office approvals/amendments for cost or activities not included in the original award? Respond to the following:

- **Significant changes or re-budgeting over 10% of award total (as applicable).** Response: no
- **Re-budgeting between direct and indirect costs (Part 30 or 31 recipients only).** Response: no
- **Equipment costs not included in the original award.** Response: yes. Equipment costs are included in the amended award.
- **Changes in key personnel.** Response: Yes, they have been trying to hire a new person to focus on stormwater inspections. They hoped to have someone on board by March 2012 but the effort to hire a stormwater position has been difficult. The initial effort was to hire a Water Program Specialist (WPS) for this limited term position. This position was posted twice with no bidders. The position classification was then changed to an Environmental Engineering Trainee (EET) or Specialist because there were a handful of qualified applicants on those civil service lists who were willing to take limited term work. This position has not yet been hired, but the process is on-going. The limited term EET will be in the NPDES Permits Section and will handle technical and permitting tasks related to stormwater.
- **Unplanned travel expenses** Response: No
- **Changes in the project's approved scope of work.** Response: Yes. When they submitted their revised progress report, PADEP requested a due date extension (until Oct 2013) for outputs B and C under objective 3. They also requested a revision in the number of WIP outreach sessions (Outputs A and C under Objective 1). They provided sufficient justification for the changes and EPA Project Officer was able to approve the changes.

3. Technical: POs are responsible for:

- > *comparing the recipient's work plan/application to actual progress under the award.*
- > *monitoring all activities and the recipient's progress on the project.*
- > *providing comments to the recipient on the progress reports and other work products.*
- > *apprizing program staff who are responsible for parts of the project/program on issues which need resolution.*
- > *recommending actions that require the attention of Grants Office or others.*

a. List work plan/application tasks, compare to actual work progress, and identify areas of concern cited in the progress report. Provide a summary of each task and current status:

Response:

| # | Objective | Programmatic Outputs | FY'10-16 Progress |
|---|--------------|--|---|
| 1 | WIP Outreach | <p>A. 8 WIP Outreach sessions (Oct 2012)</p> <p>B. 20 Outreach Sessions to the agricultural community to describe new/revised regulatory requirements and conservation criteria outlined in the Chapter 102 & Manure Management Manual revisions (10 by Oct 2012 and 10 by Oct 2013) and present plan development and implementation opportunities.</p> <p>C. 6 Outreach Sessions to County Conservation District staff to describe new/revised regulatory requirements of Chapter 102 & Manure Management Manual revisions and their requirements under them. (July 2012)</p> <p>D. Conservation plans and manure management plan development tools</p> | <p>\$ 89,248 expended out of \$288,825 budgeted through 6/30/12. Have until 6/2016 to expend.</p> <p><u>Outputs Progress:</u></p> <p>A. Not expected to be completed until Oct 2012, however, 8/8 have been completed through 6/30/12. 10 sessions were anticipated but the work was completed in 8 sessions. EPA approved request to revise the output.</p> <p>B. Not expected to be completed until Oct 2012, however, 152 outreach sessions have been completed through 6/30/12.</p> <p>C. 6/6 completed through 6/30/12. 10 sessions were anticipated but the work was completed in 6 sessions. EPA approved request to revise the output.</p> <p>D. Completed</p> <p>Refer to Revised Semi-Annual Report (Jan 1, 2012 – Jun 30, 2012) for additional detail.</p> |

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| 2 | Nutrient Trading Independent Review | <p>A. Develop and document the submittal process for innovators submitting new technologies (Dec 2011)</p> <p>B. Recruit experts who are willing and available to assist with reviews as new technologies or innovative practices that apply to their field of expertise are submitted. (Dec 2011)</p> <p>C. Complete evaluation of multiple new technologies and submitted results to DEP with effectiveness values for new technologies that reflect differences in geography, such as soil type, physiographic region, dominant agricultural practices, crop and animal type, and other such criteria. (June 2012)</p> <p>D. Perform an assessment of the review process using adaptive management principles, and recommend changes. (June 2012)</p> <p>N.B. The Review Board will meet only as requests for review of new technologies and BMPs are received.</p> | <p>\$0 expended out of \$50,000 budgeted through 6/30/12. Have until 6/2016 to expend.</p> <p><u>Outputs Progress:</u> No progress.</p> <p>Refer to Revised Semi-Annual Report (Jan 1, 2012 – Jun 30, 2012) for additional detail.</p> |
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| 3 | Improved Regulation of Nutrients & Sediment | <p>A. Manure Management Manual revisions (June 2011)</p> <p>B. Chapter 102 Erosion & Sediment Control Administrative Manual (October 2013)</p> <p>C. Erosion & Sediment Control Delegation Agreement (October 2013)</p> <p>D. 10 Outreach Sessions to ag community to describe new/revised regulatory requirements of Chapter 102 & Manure Management Manual revisions. (Dec 2012)</p> <p>E. 10 Outreach Sessions to County Conservation District staff to describe new/revised regulatory requirements of Chapter 102 & Manure Management Manual revisions. (Dec 2012)</p> | <p>\$ 106,454 expended out of \$374,142 budgeted through 6/30/12. Have until 6/2016 to expend.</p> <p><u>Outputs Progress:</u></p> <p>A. Completed</p> <p>B. Original due date was June 2012. PA provided justification to change to Oct 2013 and EPA approved request.</p> <p>C. Original due date was June 2012. PA provided justification to change to Oct 2013 and EPA approved request.</p> <p>D. Not expected to be completed until Dec 2012, however, 10/10 have been completed through 6/30/12.</p> <p>E. Not expected to be completed until Dec 2012, however, 9/10 have been completed through 6/30/12.</p> <p>Refer to Revised Semi-Annual Report (Jan 1, 2012 – Jun 30, 2012) for additional detail.</p> |
| 4 | Enforcement and Compliance Assurance | <p>First year of the grant (positions will be filled for 6 months):</p> <p>A. 225 ag inspections</p> <p>B. 25stormwater inspections</p> <p>C. 50 compliance actions</p> <p>7/1/11 through 6/31/14:</p> <p>A. 450 ag inspections (annual)</p> <p>B. 50 stormwater inspections (annual)</p> <p>C. 100 compliance actions (annual)</p> | <p>\$1,401,651 expended out of \$4,016,453 budgeted through 6/30/12. Have until 6/2016 to expend.</p> <p><u>Outputs Progress:</u></p> <p>A. 435 out of 675 expected to be completed by 6/30/12</p> <p>B. 4 out of 75 expected to be completed by 6/30/12</p> <p>C. 207 out of 150 expected to be completed by 6/30/12</p> <p>Refer to Revised Semi-Annual Report (Jan 1, 2012 – Jun 30, 2012) for additional detail.</p> |

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| 5 | Improved Tracking and Accountability | <p>A. Develop state tracking systems compatible with Chesapeake Bay Program system for Growing Greener projects, Non-Point Source projects, Nutrient Management Plan activities, and the Chesapeake Bay Implementation Grant.</p> <p>B. Prepare an updated QAPP for the reporting of BMP data to the Chesapeake Bay Program that reflects any improvements that result from Objective #5 work. Updated QAPP will be submitted by June 30, 2011.</p> | <p>\$ 182,130 expended out of \$304,218 budgeted through 6/30/12. Have until 6/2016 to expend.</p> <p><u>Outputs Progress:</u> A. ongoing B. completed</p> <p>Refer to Revised Semi-Annual Report (Jan 1, 2012 – Jun 30, 2012) for additional detail.</p> |
| 6 | | <p>First year of the grant (positions will be filled for 6 months):</p> <p>A. 30 outreach activities B. Provide assistance to 150 farmers C. Train 20 farm consultants</p> <p>Remainder of the grant period:</p> <p>A. 60 outreach activities (second & third years) B. Provide assistance to 300 farmers (annual) C. Train 50 farm consultants (second & third years) D. 50 compliance actions/referrals (annual)</p> | <p>\$0 expended out of \$5,233,638 budgeted through 6/30/12. Have until 6/2016 to expend. Funding was not provided until 12/2/11.</p> <p><u>Outputs Progress:</u> A. Not expected to begin work until July 2012 B. Not expected to begin work until July 2012 C. Not expected to begin work until July 2012 D. Not expected to begin work until Jan 2013</p> <p>Refer to Revised Semi-Annual Report (Jan 1, 2012 – Jun 30, 2012) for additional detail.</p> |

b. Is the work under the agreement on schedule? Response: Objectives 1 and 5 are proceeding on schedule for outputs expected to be completed in the first two years of the 5 year project period. Objectives 2, 3 and 4 are behind schedule for some outputs expected to be completed in the first two years. Work for objectives 1-5 will continue through 6/30/14. Obj 6 work was not funded until 12/2/11 and work will not begin until July 2012. Objective 6 work will continue through 6/30/2016

Objective 2: No Reportable Progress. DEP reorganization and the need to address reviews of DEP's Trading Program by EPA and others have made it impractical to establish this Nutrient Trading

Independent Review Team at this time. DEP is reviewing the various reports and establishing a Nutrient Trading Program Enhancement Workgroup to provide recommendations for possible changes and enhancements to the Nutrient Trading Program. Initiation of a Nutrient Trading Independent Review Team may commence when the stakeholder effort is complete by September 30, 2015. If funds can't be utilized in the Nutrient trading Independent Review project by 9/30/2015, they will be utilized in other projects within this CBRAP Grant. Will discuss this option with Project Officer after stakeholder process is completed by December 2012.

Objective 3: Completed Manure Management Manual revisions (output A) but behind schedule for completion of Chapter 102 Erosion & Sediment Control Administrative Manual (output B) and Erosion & Sediment Control Delegation Agreement (output C). When they submitted their revised progress report, PADEP requested a due date extension (until Oct 2013) for outputs B and C under objective 3. They provided the following justification for the changes and EPA Project Officer was able to approve the changes:

Activities related to the development of the Chapter 102 Administrative Manual and Delegation Agreement are dependent on other program areas within DEP – agriculture is only a small subset of this regulation. Work continues on the Admin Manual and Delegation Agreement, but delays are the result of the on-going work in other program areas outside of the control of the staff funded by this objective. These delays were the result of the DEP-wide Permit Decision Guarantee Project (PDG), which required the same program staff in the stormwater and E&S program to focus efforts on the development of permitting Standard Operating Procedures. These staff were unavailable to complete the E&S Admin Manual and Delegation Agreement, as they were involved in PDG AND the activities/program changes that resulted from PDG also changed aspects of the districts. With the November 14th release of PDG documents, these staff will be able to re-engage in the development of the Delegation Agreement and Admin Manual. This should allow DEP to get back on track to completing this output. The focus on PDG and the changes that resulted from PDG will impact the completion deadline for the E&S Delegation Agreement and Admin Manual. DEP will request a change in the “Specific Outputs for this Objective” to change the deadline of these two outputs from June 2012 to October 2013. The Delegation Agreement and Admin Manual should be completed before that time, but this October deadline corresponds to the date of the annual E&S program training, at which time these outputs must be completed to train DEP and district staff.

Objective 4: Ahead of schedule for compliance actions (output C) but behind schedule for ag inspections (output A) and stormwater inspections (output B).

PADEP provided the following explanation for these lags: In general, compliance and limited-term positions are difficult to fill. In addition, the process to fill such positions cannot be initiated until funding is in place. Three of the four staff positions were filled by March 2011. The final position filled in December 2011. Staff are now fully on-board and ag inspection numbers have increased. The October 2011 reorganization of DEP central and regional offices will prevent these same staff from inspecting ag operations and stormwater activities. DEP plans to hire a stormwater inspection staff position in the Bureau of Point and Non Point Source Management. This change will increase the number of staff in this grant by one, with no impact on the budget. This is possible because of delays in hiring these staff

positions. This hiring was not complete by the end of the reporting period (June 30, 2012). DEP does not expect to meet the annual 50 inspection output in the near term, but does expect to meet the overall output for the stormwater inspections (~275) by the end of this grant in June 2016.

The effort to hire a stormwater position has been difficult. The initial effort was to hire a Water Program Specialist (WPS) for this limited term position. This position was posted twice with no bidders. The position classification was then changed to an Environmental Engineering Trainee (EET) or Specialist because there were a handful of qualified applicants on those civil service lists who were willing to take limited term work. This position has not yet been hired, but the process is on-going. The limited term EET will be in the NPDES Permits Section and will handle technical and permitting tasks related to stormwater. With the difficulties in hiring a limited Water Program Specialist (WPS) another WPS position was transferred in October 2012 to take the lead on developing a statewide stormwater monitoring and compliance program. The WPS position will not be conducting actual inspection activities, but will support those efforts by developing guidance, forms, policies, training, etc. DEP regions and county conservation districts will do the actual inspections. The CBRAP grant funds will leverage the inspection effort by supporting the inspection effort and developing guidance, forms, policies, training, etc. Following program development and training, DEP inspections under Pennsylvania's Chapter 102 requirements are on-going and data from these inspections should be collected starting January 2013. Reporting on the outputs "50 stormwater inspections/year" will begin with the reporting of conservation district inspections in January 2013 and include DEP MS4 stormwater inspections in July 2013. Combining these efforts, the required 175 stormwater inspections required by June 2014 should be met and exceeded.

c. Is the actual work being performed within the scope of the recipient's work plan? Response: yes

d. Are the recipient's staff and facilities appropriate to handle the work under the agreement? Response: yes

e. Based upon the progress reports and this review, is the recipient:

- **Generally submitting progress reports as required in the award and on time?** Response: yes
- **Submitting products/progress reports that are acceptable?** Response: yes
- **Has the recipient been notified in writing that the products/progress reports received to date are acceptable or not acceptable and the project file documented accordingly? If not, please notify the recipient and document the project file as a result of this monitoring review.** Response: yes

Meeting milestones and/or targets described in the award and/or scope of work? Response:

Objectives 1 and 5 are proceeding on schedule for outputs expected to be completed in the first two years of the 5 year project period. Objectives 2, 3 and 4 are behind schedule for some outputs expected

to be completed in the first two years. Work for objectives 1-5 will continue through 6/30/14. Obj 6 work was not funded until 12/2/11 and work will not begin until July 2012. Objective 6 work will continue through 6/30/2016

Objective 2: No Reportable Progress. DEP reorganization and the need to address reviews of DEP's Trading Program by EPA and others have made it impractical to establish this Nutrient Trading Independent Review Team at this time. DEP is reviewing the various reports and establishing a Nutrient Trading Program Enhancement Workgroup to provide recommendations for possible changes and enhancements to the Nutrient Trading Program. Initiation of a Nutrient Trading Independent Review Team may commence when the stakeholder effort is complete by September 30, 2015. If funds can't be utilized in the Nutrient trading Independent Review project by 9/30/2015, they will be utilized in other projects within this CBRAP Grant. Will discuss this option with Project Officer after stakeholder process is completed by December 2012.

Objective 3: Completed Manure Management Manual revisions (output A) but behind schedule for completion of Chapter 102 Erosion & Sediment Control Administrative Manual (output B) and Erosion & Sediment Control Delegation Agreement (output C). When they submitted their revised progress report, PADEP requested a due date extension (until Oct 2013) for outputs B and C under objective 3. They provided the following justification for the changes and EPA Project Officer was able to approve the changes:

Activities related to the development of the Chapter 102 Administrative Manual and Delegation Agreement are dependent on other program areas within DEP – agriculture is only a small subset of this regulation. Work continues on the Admin Manual and Delegation Agreement, but delays are the result of the on-going work in other program areas outside of the control of the staff funded by this objective. These delays were the result of the DEP-wide Permit Decision Guarantee Project (PDG), which required the same program staff in the stormwater and E&S program to focus efforts on the development of permitting Standard Operating Procedures. These staff were unavailable to complete the E&S Admin Manual and Delegation Agreement, as they were involved in PDG AND the activities/program changes that resulted from PDG also changed aspects of the districts. With the November 14th release of PDG documents, these staff will be able to re-engage in the development of the Delegation Agreement and Admin Manual. This should allow DEP to get back on track to completing this output. The focus on PDG and the changes that resulted from PDG will impact the completion deadline for the E&S Delegation Agreement and Admin Manual. DEP will request a change in the "Specific Outputs for this Objective" to change the deadline of these two outputs from June 2012 to October 2013. The Delegation Agreement and Admin Manual should be completed before that time, but this October deadline corresponds to the date of the annual E&S program training, at which time these outputs must be completed to train DEP and district staff.

Objective 4: Ahead of schedule for compliance actions (output C) but behind schedule for ag inspections (output A) and stormwater inspections (output B).

PADEP provided the following explanation for these lags: In general, compliance and limited-term positions are difficult to fill. In addition, the process to fill such positions cannot be initiated until funding is in place. Three of the four staff positions were filled by March 2011. The final position filled in December 2011. Staff are now fully on-board and ag inspection numbers have increased. The October 2011 reorganization of DEP central and regional offices will prevent these same staff from inspecting ag operations and stormwater activities. DEP plans to hire a stormwater inspection staff position in the Bureau of Point and Non Point Source Management. This change will increase the number of staff in this grant by one, with no impact on the budget. This is possible because of delays in hiring these staff positions. This hiring was not complete by the end of the reporting period (June 30, 2012). DEP does not expect to meet the annual 50 inspection output in the near term, but does expect to meet the overall output for the stormwater inspections (~275) by the end of this grant in June 2016.

The effort to hire a stormwater position has been difficult. The initial effort was to hire a Water Program Specialist (WPS) for this limited term position. This position was posted twice with no bidders. The position classification was then changed to an Environmental Engineering Trainee (EET) or Specialist because there were a handful of qualified applicants on those civil service lists who were willing to take limited term work. This position has not yet been hired, but the process is on-going. The limited term EET will be in the NPDES Permits Section and will handle technical and permitting tasks related to stormwater. With the difficulties in hiring a limited Water Program Specialist (WPS) another WPS position was transferred in October 2012 to take the lead on developing a statewide stormwater monitoring and compliance program. The WPS position will not be conducting actual inspection activities, but will support those efforts by developing guidance, forms, policies, training, etc. DEP regions and county conservation districts will do the actual inspections. The CBRAP grant funds will leverage the inspection effort by supporting the inspection effort and developing guidance, forms, policies, training, etc. Following program development and training, DEP inspections under Pennsylvania's Chapter 102 requirements are on-going and data from these inspections should be collected starting January 2013. Reporting on the outputs "50 stormwater inspections/year" will begin with the reporting of conservation district inspections in January 2013 and include DEP MS4 stormwater inspections in July 2013. Combining these efforts, the required 175 stormwater inspections required by June 2014 should be met and exceeded.

Note: Questions f. and g. pertain to environmental results. If your grant was awarded on or after January 1, 2005, the official date the Environmental Results Policy became effective, answer both g. and h. The CBP Grant and Cooperative Agreement Guidance states that the recipient is required to attach to each applicable performance report (semi-annual, quarterly, or final) an updated Work Plan and Progress Made Performance Results Under Assistance Agreements Form that was submitted with the grant application. If not received, obtain copy from recipient to assist in responding to questions g. and h. and to document file. If your grant was awarded prior to January 1, 2005, answer both questions as "NA".

f. Is the recipient making agreed-upon progress in meeting environmental results and/or environmental outcomes and outputs (to the maximum extent practicable) Response: Objectives 1 and 5 are proceeding on schedule for outputs expected to be completed in the first two years of the 5 year project period. Objectives 2, 3 and 4 are behind schedule for some outputs expected to be completed in the first two years. Work for objectives 1-5 will continue through 6/30/14. Obj 6 work was

not funded until 12/2/11 and work will not begin until July 2012. Objective 6 work will continue through 6/30/2016

Objective 2: No Reportable Progress. DEP reorganization and the need to address reviews of DEP's Trading Program by EPA and others have made it impractical to establish this Nutrient Trading Independent Review Team at this time. DEP is reviewing the various reports and establishing a Nutrient Trading Program Enhancement Workgroup to provide recommendations for possible changes and enhancements to the Nutrient Trading Program. Initiation of a Nutrient Trading Independent Review Team may commence when the stakeholder effort is complete by September 30, 2015. If funds can't be utilized in the Nutrient trading Independent Review project by 9/30/2015, they will be utilized in other projects within this CBRAP Grant. Will discuss this option with Project Officer after stakeholder process is completed by December 2012.

Objective 3: Completed Manure Management Manual revisions (output A) but behind schedule for completion of Chapter 102 Erosion & Sediment Control Administrative Manual (output B) and Erosion & Sediment Control Delegation Agreement (output C). When they submitted their revised progress report, PADEP requested a due date extension (until Oct 2013) for outputs B and C under objective 3. They provided the following justification for the changes and EPA Project Officer was able to approve the changes:

Activities related to the development of the Chapter 102 Administrative Manual and Delegation Agreement are dependent on other program areas within DEP – agriculture is only a small subset of this regulation. Work continues on the Admin Manual and Delegation Agreement, but delays are the result of the on-going work in other program areas outside of the control of the staff funded by this objective. These delays were the result of the DEP-wide Permit Decision Guarantee Project (PDG), which required the same program staff in the stormwater and E&S program to focus efforts on the development of permitting Standard Operating Procedures. These staff were unavailable to complete the E&S Admin Manual and Delegation Agreement, as they were involved in PDG AND the activities/program changes that resulted from PDG also changed aspects of the districts. With the November 14th release of PDG documents, these staff will be able to re-engage in the development of the Delegation Agreement and Admin Manual. This should allow DEP to get back on track to completing this output. The focus on PDG and the changes that resulted from PDG will impact the completion deadline for the E&S Delegation Agreement and Admin Manual. DEP will request a change in the "Specific Outputs for this Objective" to change the deadline of these two outputs from June 2012 to October 2013. The Delegation Agreement and Admin Manual should be completed before that time, but this October deadline corresponds to the date of the annual E&S program training, at which time these outputs must be completed to train DEP and district staff.

Objective 4: Ahead of schedule for compliance actions (output C) but behind schedule for ag inspections (output A) and stormwater inspections (output B).

PADEP provided the following explanation for these lags: In general, compliance and limited-term positions are difficult to fill. In addition, the process to fill such positions cannot be initiated until

funding is in place. Three of the four staff positions were filled by March 2011. The final position filled in December 2011. Staff are now fully on-board and ag inspection numbers have increased. The October 2011 reorganization of DEP central and regional offices will prevent these same staff from inspecting ag operations and stormwater activities. DEP plans to hire a stormwater inspection staff position in the Bureau of Point and Non Point Source Management. This change will increase the number of staff in this grant by one, with no impact on the budget. This is possible because of delays in hiring these staff positions. This hiring was not complete by the end of the reporting period (June 30, 2012). DEP does not expect to meet the annual 50 inspection output in the near term, but does expect to meet the overall output for the stormwater inspections (~275) by the end of this grant in June 2016.

The effort to hire a stormwater position has been difficult. The initial effort was to hire a Water Program Specialist (WPS) for this limited term position. This position was posted twice with no bidders. The position classification was then changed to an Environmental Engineering Trainee (EET) or Specialist because there were a handful of qualified applicants on those civil service lists who were willing to take limited term work. This position has not yet been hired, but the process is on-going. The limited term EET will be in the NPDES Permits Section and will handle technical and permitting tasks related to stormwater. With the difficulties in hiring a limited Water Program Specialist (WPS) another WPS position was transferred in October 2012 to take the lead on developing a statewide stormwater monitoring and compliance program. The WPS position will not be conducting actual inspection activities, but will support those efforts by developing guidance, forms, policies, training, etc. DEP regions and county conservation districts will do the actual inspections. The CBRAP grant funds will leverage the inspection effort by supporting the inspection effort and developing guidance, forms, policies, training, etc. Following program development and training, DEP inspections under Pennsylvania's Chapter 102 requirements are on-going and data from these inspections should be collected starting January 2013. Reporting on the outputs "50 stormwater inspections/year" will begin with the reporting of conservation district inspections in January 2013 and include DEP MS4 stormwater inspections in July 2013. Combining these efforts, the required 175 stormwater inspections required by June 2014 should be met and exceeded.

g. If the recipient is experiencing significant problems meeting agreed-upon outcomes and outputs, has the recipient been required to develop and implement a corrective action plan?

Response: no

4. Agreement Specific: POs to discuss which areas apply to this agreement, otherwise, NA:

>Reviewing progress reports and other work products to assure that the recipient is complying with the applicable programmatic regulations and programmatic terms and conditions in the agreement.

> Notifying Grants Office if the recipient is not complying with the terms and conditions of the agreement,

> Providing technical assistance to recipients when requested or required by the programmatic terms and conditions of the award.

>Assisting the recipient, where appropriate, with the development of a plan to conduct subsequent portions of the project.

a.) Pre-Award Costs: *(For more information on pre-award costs, please review: 1) GPI-00-02 (a) entitled, "Clarification on GPI 00-02 Modification to Policy Guidance for 40 CFR Part 31 Pre-Award Costs," (May 3, 2000); 2) 40 CFR 30.25(f)(1) or 40 CFR 30.28 and; 3) 40 CFR 31.23.)*

- **Did the recipient incur costs prior to receiving the award?** Response: no
- **If so, was the recipient's written request approved by the PO, file documented, and included on the assistance agreement?** Response: N/A

b.) Programmatic Conditions, Regulatory, and Statutory Requirements:

1. Programmatic Conditions:

a. Is the recipient complying with applicable programmatic terms and conditions of the award?

Response: yes

b. Has the recipient submitted Quality Assurance Project Plan (s) (QAPP)? If not applicable, list N/A? Response: yes

c. Has the recipient submitted Quality Management Plan(s) (QMP)? If not applicable, list N/A?

Response: yes

d. If applicable, is an approved QMP/QAPP plan documented in file?

(If QMP/QAPP not in file or approved, find out why? Contact is Mary Ellen Ley.)

Response: yes

e. Are all personnel responsible for implementing the QMP/QAPP familiar with its requirements?

Response: yes

2. Statutory and Regulatory Requirements: *(Statutory pertains to Clean Water Act, Sec 117; Regulatory pertains to 40 CFR Part 30 for Non-Profit Organizations and Universities and Part 31 for State and Local Governments.)*

a. Have all Statutory requirements been met? Response: In support of the Clean Water Act, Section 117, this project supports reduction of nutrient and sediment loads that cause or contribute to the impairment of water quality standards in the Chesapeake Bay and its tidal tributaries, which is in support of Chesapeake 2000 Agreement - Water Quality Protection & Restoration - to achieve and maintain the Water Quality necessary to support the aquatic living resources of the Bay and its tributaries and to protect human health.

b. Have all Regulatory requirements been met? *(Use this statement provided the requirements in the applicable 40 CFR Part 30 or 31 requirements are being met.)* Response: All regulatory requirements are being met.

c.) Equipment/Supplies:

1. Did the recipient purchase equipment as planned in the agreement and was it used as planned?

Response: Equipment (3 vehicles) had not yet been purchased.

If so, request a list of equipment indicating each item purchased and the date and dollar amount of purchase. Attach list to this protocol. (Note: Each item and its cost must be approved in recipient's budget and purchased only during the budget/project period of this assistance agreement.)

2. Did the recipient purchase supplies as planned in the agreement and was it used as planned?

Response: yes

(Note: Requested and approved supplies should represent only the supplies that are needed to complete the approved workplan. Supplies must be purchased only during the budget/project period of this assistance agreement.)

d.) Travel: Was this authorized in the agreement and was it carried out appropriately?

Response: yes

e.) Conferences: Did the conference comply with the Best Practices Guide for Conferences?

Response: N/A

f.) Contracting practices: Written Code of Conduct/Ethics: Federal regulations require recipients to establish codes of conduct to eliminate any potential conflict of interest and to establish disciplinary actions for those violating the standards. Note: (The minimum requirements are outlined in 40 CFR 30.42, Non-Profit Organizations, Universities; 40 CFR 31.36(3), State and Local Governments.)

1. Contractual Costs: Were contractual/subcontract costs authorized in the assistance agreement? Costs must be approved in the contractual budget category in the assistance agreement.

Response: yes

a. If yes, answer the following questions:

- are costs consistent with the approved work plan? yes
- budget category reflects funds for contracting? yes
- the recipient reprogrammed funds to contracting? no
- subcontracts SOW consistent with scope of the assistance agreement? yes

2. Does grant recipient have written contracting procedures? Response: yes

3. Competition: Was the contract competed/sole source; files documented? Response: yes – they are attached to all DEP contracting documents.

g. Subawards: Subaward Policy, effective May 15, 2007, requires all new awards and supplemental amendments awarded on or after May 15, 2007 must meet the requirements of the Directive. Subaward costs must be included under the "Other" budget cost category in the assistance agreement.

1. Does the work plan contain subaward work? Response: yes

a. If yes, does the recipient have subawards pertinent to the agreement/amendment work plan?
Response: yes

b. If yes, is the recipient complying with the subaward policy requirements? yes

h.) Program Income: (POs must work with the recipient to resolve program-income related issues on agreements that generate program income.)

• Did the project generate unanticipated program income? Response: N/A

i.) EPA-Furnished In Kind: Was this satisfactorily used in the assistance agreement?
Response: N/A

j.) Recipient Furnished/Third Party In Kind:

• Met the conditions under 40 CFR 30.23 and 40 CFR 31.24? Response: N/A

• Were any adjustments made to the cost share? Response: N/A

5. Closeout Process (Applicable to Closeout Review): Closeout of the award occurs when all applicable administrative actions and all required work of the grant has been completed.

Note: (Project Officer should be aware of the recipients responsibility in the closeout process and review the general regulations (40 CFR 30.71 Universities & Non-Profits and 40 CFR 31.50 State and Local Governments) on Closeout Requirements with grantee.)

a. Are any funds remaining? If so, why and what tasks were not completed? Response: N/A

b. Has the Final Technical Report been submitted, reviewed, and approved? Response: N/A

c. Equipment/Supplies: *Project Officers should be aware and review with the recipient the disposition requirements outlined in 40 CFR 30.34 and 30.35 for Non-Profit Organizations and Universities; 40 CFR 31.32 and 31.33 for State and Local Governments. If the recipient no longer needs the equipment, please request from the recipient a list of equipment purchased, its fair market value and date of purchase.*

• Is the recipient keeping the equipment? Response: N/A

- **Is the recipient keeping the supplies?** Response: N/A

6. Based upon PO review and knowledge of this award, does PO recommend:
(Yes or No Response required)

a. Award Amendment: Prior to responding, refer back to Part II, Items 2g & 2h on this report.
 Response: No.

b. Advanced Programmatic Monitoring: If needed, discuss with Lori or Ronnie to either add to current list, if not already on, or next year's PO Advanced Programmatic Monitoring List in the Post Award Monitoring Plan. Response: no

c. Administrative Review completed by Grants Office: Respond "No". If major concerns exist to check "Yes", discuss with Lori or Ronnie prior to responding to this question. Response: no

d. OIG Referral: Respond "No" If major concerns exist to check "Yes", discuss with Lori or Ronnie prior to responding to this question. Response: no

e. More Frequent Baseline Monitoring Reviews (less than every six months) Response: no

7. Project Officer Suggestions and Recommendations (define as either major or minor):

Note: (Recommendations should have corresponding routes to/for resolution specified in report. Also, when major recommendations are made, EPA should explicitly require the recipient to develop and submit a corrective action plan to address the major recommendation.)

Response: Minor

- PA DEP needs to provide a revised progress report addressing all comments from EPA by 11/29/12.
- The next semi-annual progress report will be due on April 1, 2013. Please be sure to use the correct template for submitting the report. Please be sure to report not only the \$\$ spent and outputs for the new period, but also include the cumulative \$\$ spent and cumulative outputs since the July 1, 2009 start date.
- The next interim Federal Financial Report (FFR) for this grant is due 9/30/13. Needs to be submitted to EPA Las Vegas Finance Center.
- The next MBE/WBE report is due 3/31/13. Please submit to EPA Region III
- Please comply with the provisions in the FY10, 11 and 12 CBP Grant Guidance.

8. Recipient Recommendations and Suggestions:

Response: When they submitted their revised progress report, PADEP requested a due date extension (until Oct 2013) for outputs B and C under objective 3. They also requested a revision in the number of WIP outreach sessions (Outputs A and C under Objective 1). They provided sufficient justification for the changes and EPA Project Officer was able to approve the changes.

PADEP separately provided comments to EPA related to the draft FY13 grant guidance.

9. Identify any areas where the recipient is significantly meeting or exceeding programmatic expectations:

Response: N/A

10. Recommendations for the Grants Office, if any:

Response: N/A

RESOLUTION PLAN AND TIMING - PART III

Prepare Corrective Action Plan, if applicable, to address major recommendation(s):

- 1. Tell the recipient when the corrective action plan is due, and clearly state what should be addressed.**
- 2. Tell the recipient to whom they should send the corrective action plan (EPA contact) and where to send it, including phone number.**

Response: N/A

Note:

1. Send a electronic copy of protocol to the recipient for comment.
 2. cc: Ronnie Kuczynski
- (Also, send to Ronnie any follow-up letters sent to recipient, and relevant e-mail messages)